



June 20, 2001

Mr. Marcus W. Norris  
City Attorney  
City of Amarillo  
P.O. Box 1971  
Amarillo, Texas 79105-1971

OR2001-2610

Dear Mr. Norris:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148567.

The City of Amarillo (the "city") received a request for report number 2001-0001339-000 pertaining to an accident on March 7, 2001. You assert that the requested information is excepted from disclosure under section 552.103 of the Government Code.<sup>1</sup> We have considered the exception you claim and have reviewed the submitted information.

The information at issue involves a completed report. The submitted report was prepared by the Amarillo Fire Department. Section 552.022 of the Government Code makes certain information expressly public, and therefore not subject to discretionary exceptions to disclosure. One such category of expressly public information under section 552.022 is "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by [s]ection 552.108[.]" Gov't Code § 552.022(a)(1). Our office has previously concluded that section 552.103 is a discretionary exception. *See* Open Records Decision No. 551 (1990) (statutory predecessor to section 552.103 serves only to protect a governmental body's position in litigation, and does not itself make information confidential). We do not believe that this exception "expressly [makes] information confidential under other law." Gov't Code § 552.022. After reviewing the submitted report, we conclude that you may not withhold the report under section 552.103 of the Government Code. Therefore, you must release report number 2001-0001339-000 pursuant to section 552.022(a)(1).

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<sup>1</sup>You request that "in order to promote efficiency, . . . the Attorney General go ahead and rule that the City's police and risk management investigative reports . . . are also exempt from public disclosure under the litigation exception, § 552.103." This office issues decisions when a governmental body receives a written request for information and the governmental body asks to withhold the requested information. Gov't Code § 552.301. Thus, this ruling is limited to the requested report number 2001-0001339-000.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Polly McCann Pruneda", written over a horizontal line.

Polly McCann Pruneda  
Assistant Attorney General  
Open Records Division

PMP/sdk

Ref: ID# 148567

Encl: Submitted documents

cc: Mr. Terry Miller  
5801 SW 50<sup>th</sup> Street  
Amarillo, Texas 79109  
(w/o enclosures)